

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 18-3551-MWF (KS)

Date: October 2, 2018

Title Gwen A. Diebold v. Nancy A. Berryhill

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Gay Roberson
Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On May 23, 2018, Plaintiff, a California resident proceeding *pro se* and *in forma pauperis*, filed a Complaint seeking review of the Social Security Administration’s denial of her applications for Disability Insurance Benefits and Supplemental Security Income. (Dkt. No. 2.) On May 30, 2018, the Court issued a scheduling order that directed Plaintiff to file an appropriate proof of service within 30 days of the date of the order. (Dkt. No. 7.) Plaintiff then sought and received an extension of time to file a supplement to the Complaint and a proof of service, extending the deadline for filing a proof of service to September 18, 2018. (*See* Dkt. Nos. 8-10.)

Two weeks have now passed since Plaintiff’s deadline for filing an appropriate proof of service, and none has been filed. Further, there is no indication that Plaintiff has complied with Rule 4(m) of the Rules of Federal Civil Procedure, which requires plaintiffs to effect service of a complaint within 90 days after the date it is filed. *See* FED. R. CIV. P. 4(m) (“If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.”).

Accordingly, Plaintiff is **ORDERED TO SHOW CAUSE no later than October 23, 2018 why this action should not be dismissed** for failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure and for failure to prosecute and comply with court orders

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pursuant to Rule 41 of the Federal Rules of Civil Procedure and Local Rule 41-1. Plaintiff may discharge this order by filing before the October 23, 2018 deadline either:

- (1) proper proof of service reflecting service within the 90 days required by Rule 4(m);¹ or
- (2) a request for an extension of time to serve the Complaint and/or file the proof of service with a sworn declaration showing good cause for her failure to comply with the Court's orders and Rule 4(m) of the Federal Rules of Civil Procedure.

Plaintiff's failure to timely comply with this Order may result in a recommendation of dismissal.

Initials of Preparer _____ :
gr _____

¹ Proper proof of service in this case would consist of **the certified or registered mail receipts and a declaration, under penalty of perjury, that the summons and complaint were served by registered or certified mail** on: (a) the United States Attorney for the Central District of California, or his or her authorized agent, addressed to the civil process clerk at the Office of the United States Attorney, Civil Division, Room 7516, Federal Building, 300 North Los Angeles Street, Los Angeles California 90012; (b) Region IX Chief Counsel, Office of the General Counsel, Social Security Administration, 160 Spear Street, Suite 800, San Francisco, CA 94105-1545; and (c) the Attorney General of the United States, United States Department of Justice, 950 Pennsylvania Ave. NW, Washington D.C. 20530-0001.